

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2018- -T

IN RE: Petition of the Office of Regulatory Staff to) **PETITION FOR REVOCATION OF**
 Revoke Certificates of Public Convenience and) **CERTIFICATES OF PUBLIC**
 Necessity of Certain Motor Carriers For Failure) **CONVENIENCE AND NECESSITY**
 to File Annual Reports and/or Gross Receipts) **OF CERTAIN MOTOR CARRIERS**
 2017

The South Carolina Office of Regulatory Staff ("ORS"), by filing this petition, would respectfully show and request of the Commission:

1. That the Public Service Commission of South Carolina ("Commission") is a state agency constituted pursuant to the laws of the State of South Carolina with its business offices located in Columbia, South Carolina; that the Commission is responsible for the regulation of motor vehicle carriers operating for compensation as set forth in S.C. Code Ann. § 58-23-10 *et seq.* (2015) that ORS is charged with the duty to protect the public interest pursuant to S.C. Code Ann. § 58-4-10 *et seq.* (2015).

2. That the persons or companies listed in Exhibits A and B have been approved by the Commission and certified by the ORS to operate as "motor vehicle carriers" as defined in S.C. Code Ann. § 58-23-10(4) (2015) in that they own, control, operate or manage motor propelled vehicles, not usually operated on or over rails, used in the business of transporting persons or property for compensation over improved public highways in this state.

3. That the companies listed in Exhibits A and B, each having applied for and having an Order from the Commission to receive a Certificate of Public Convenience and Necessity ("PC&N") to operate a motor vehicle carrier as defined in S.C. Code Ann. § 58-23-10(4) (2015), have submitted to the jurisdiction of the Commission by holding said Certificate PC&N, and are therefore subject to the jurisdiction of this Commission pursuant to S.C. Code Ann. § 58-23-1010 *et seq.* (2015). See Exhibit A, Carriers Out of

Compliance for Failure to File Annual Reports. See Exhibit B, Carriers Out of Compliance for Failure to File Gross Receipts.

4. That the companies listed in Exhibits A and B, prior to receiving their Certificate PC&N, were each found to be fit, willing and able (“FWA”) to operate as a motor carrier by the Commission; from our understanding that in obtaining such authority the companies certified they are “familiar with all statutes and regulations, including safety operations in South Carolina and agree to operate in compliance with these statutes and regulations” 10 S.C. Code Ann. Regs. 103-133(1)(a) (2012).

5. Pursuant to S.C. Code Ann. §§ 58-3-100, 58-3-540, and 58-4-60 (2015 and Supp. 2016), the public utilities subject to the Commission’s jurisdiction are assessed by the Department of Revenue based on amounts that are certified by the Commission, the State Regulator of Public Utilities Review Committee, and ORS to be assessed. ORS may require the production of books, records and other information concerning any matter about which the ORS is authorized to inquire or keep itself informed or which it is required to enforce. S.C. Code Ann. § 58-4-55 (and Supp. 2016).

6. That, pursuant to S.C. Code Ann § 58-4-10 (2015), beginning January 1, 2005, ORS must represent the public interest of South Carolina before the Commission and has authority to enforce collection of such fees and to collect such annual reports.

7. That, “[e]very motor carrier operating under a Certificate PC&N and FWA shall file with the commission and ORS on or before March 31 of each year, on forms prescribed and furnished by the commission, an annual report for the preceding calendar year ending on June 30.” 10 S.C. Code Ann. Regs. 103-231 (2012).

8. That the companies listed in Exhibit A attached hereto have failed to file annual reports that were due on or before March 31, 2017 for the year ending 2016. See Exhibit C, Affidavit of Thomas McGill.

9. That the companies listed in Exhibit B attached hereto have failed to complete and submit gross receipts, which had an ORS requested return deadline of August 31, 2017, and are therefore

currently not in compliance with the statutes governing the regulation of motor carriers. See Exhibit C, Affidavit of Thomas McGill.

10. That “[t]he commission may at any time, after notice and opportunity to be heard, suspend, revoke, alter, or amend any certificate, if it shall be made to appear that the holder has willfully violated or refused to observe orders, rules, or regulations prescribed by the commission, provisions of the Motor Vehicle Carrier Law, or any other law of this State regulating motor carriers for hire and applicable to the holder of such certificate, or, if, in the opinion of the commission, the motor carrier holding a Certificate PC&N is not furnishing adequate service or it is no longer compatible with the public interest to continue said certificate in force, or, if in the opinion of the commission, the motor carrier holding a Certificate of FWA is no longer furnishing adequate service, or said carrier no longer meets the fit, willing, and able criteria....” 10 S.C. Code Ann. Regs. 103-240 (2012).

11. That “[t]he commission may, after a hearing, order the suspension, revocation, alternation, or amendment of any certificate issued pursuant to Articles 1 through 11 of this chapter, if it is proved that the holder of the certificate willfully made any misrepresentation of a material fact in obtaining his certificate or willfully violated or refused to observe the laws of this State touching motor vehicle carriers or willfully violated any of the terms of his certificate or of the commission’s proper orders, rules or regulations. But the holder of the certificates has the right of appeal to any court of competent jurisdiction. The commission must not be a party to any appeal.” S.C. Code Ann. § 58-23-320 (2015).

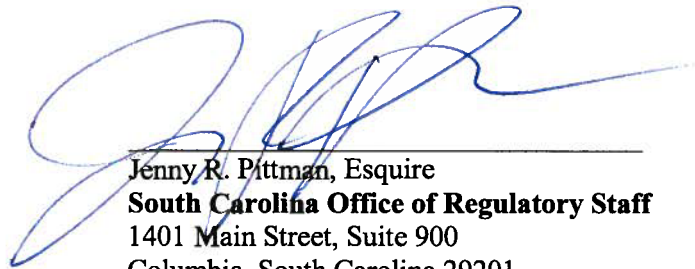
12. Pursuant to 10 S.C. Code Ann. Regs. 103-830(B)(1) (2012), “[i]f a person other than the petitioner is named in a petition for a declaratory order or in a petition for revocation, the Chief Clerk shall cause a copy of the petition to be mailed to such named person within 14 days of the filing of the petition.” In order to assist the commission in serving this Petition on the Respondents, ORS has provided information in Exhibits A and B regarding each motor carrier.

13. The information listed in Exhibits A and B accurately reflects the information on file with ORS as of January 12, 2018. See Exhibit A, Carriers Out of Compliance for Failure to File Annual Reports.

See Exhibit B, Carriers Out of Compliance for Failure to File Gross Receipts. See also Exhibit C, Affidavit of Thomas McGill.

WHEREFORE, ORS respectfully requests that the Honorable Commission:

1. Provide for the opportunity by the carrier to respond to the allegations of this Petition within (30) days from the date of the receipt of this Petition;
2. Schedule and conduct a formal administrative hearing as soon as practicable to address disputed issues of fact and law regarding the Certificates of PC&N of the carriers listed in Exhibits A and B, which ORS seeks to have revoked by the Commission in this action pursuant to 10 S.C. Code Ann. Regs. 103-240 (2012) and S.C. Code Ann. § 58-23-320 (2015);
3. Following the formal administrative hearing, immediately rule to revoke the Certificates of those motor carriers listed in Exhibits A and B in accordance with the authority provided to the Commission under 10 S.C. Code Ann. Regs. 103-231 and 240 (2012); and S.C. Code Ann. § 58-23-320 (2015) and thereafter immediately enter a final Order; and,
4. For other appropriate action which the Commission may deem necessary.



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Columbia, South Carolina